

BESNER AUCTION AND REALTY POLICY AND PROCEDURE MANUAL

(NOTE: This is not intended to be a boilerplate template for other broker's policy and procedure manual. It expresses only our rules, requirements and goals. Each broker and associate broker should have his/her own legal counsel review any manual that is intended for his/her office.)

1.) **STATEMENT OF GOALS:** Besner Auction and Realty is in the service business and its reputation is build upon knowledge, expertise, action and integrity of its brokers, associate brokers, salespeople and employees. It is a requirement that all of its personnel act in accordance with the highest professional and ethical standards. We are committed to delivering real estate services in a manner which meets or exceeds these standards. *Our Mission "To provide the best service possible. And to be ever mindful of the needs of our customers and clients. It is only placing them first that we achieve true success"*

2.) EQUAL OPPORTUNITY

A. The Company insists and requires that all of personnel provide equal opportunity in all real estate business transactions. They shall keep informed on all matters regarding the requirements imposed by all equal opportunity and fair housing laws and shall act in accordance with these laws. Service shall be offered to all clients and customers regardless of race, color, religion, national origin, sex, ethnic background, age, marital or familial status, disability or any other classification protected by law.

B. No personnel shall print, display or circulate any statement or advertisement with respect to the sale or rental of a property that indicates any preference, limitation or discrimination on the basis of any classification of protected individuals.

3.) BROKER SUPERVISION

A. The Company is committed to fulfillment of all applicable standards for oversight by supervisory personnel which shall, at a minimum meet the requirements promulgated by the Michigan Occupational Code.

B. The company's personnel, whether a licensed real estate agent or not, shall comply with these minimum standards. The company and all personnel must conduct themselves in a manner which meets these standards. The company encourages everyone to act in a manner which exceeds these minimum standards in order to assure better service to clients and customers and to minimize the risk of potential liability.

C. All brokers and associate brokers having supervisory responsibility shall maintain open, direct communication with all personnel. Such communication must be direct and conducted on a regularly scheduled basis. It may be in person, by radio, telephone or electronically. Every effort will be made to assure that a broker or associate broker is available on a continuous basis for the purpose of such communication. All personnel shall cooperate fully with the broker and associate brokers to assure that this communication is fully maintained.

D. Broker/Associate Broker Availability: a broker or associate broker will be available on a regularly scheduled basis to do all of the following:

1. Review the work of all supervised individuals;
2. Provide consultation for the supervised individual;
3. Further education the supervised individual in the performance of the individual's functions.

4.) PROFESSIONAL STANDARDS

A. The company is committed to the compliance by its personnel with the standards imposed by law and by the professional organizations to which the company belongs.

B. It is required that all real estate licensees with the company shall familiarize themselves with the Occupational Code and the Administrative Rules promulgated in accordance with the Code, and with the Bylaws, Rules and Regulations of all professional organizations of which the company is a member.

C. All personnel are required to keep themselves updated on all changes in the law insofar as they affect real estate licensees.

D. All associate brokers and salespeople of the company shall comply with all Codes of Ethics, Standards of Practice and other rules and regulations imposed upon them by virtue of membership in any professional organizations.

5.) ANTITRUST COMPLIANCE

A. Commission rates of the company are established solely by the company and are based upon the company assessment of its costs and market conditions.

B. Commission rates are not set by any agreement with, or suggestion from, any person or entity, other than the client with whom a listing or other agreement of sale, purchase or lease of property is signed.

C. Company personnel shall not discuss with anyone the setting of commission rates charges by the company, or, for that matter, by any other real estate company.

D. Company personnel shall make no reference to a "going" rate for real estate services. It is expressly understood that all commission rates are strictly negotiable between the company and its principals.

E. The amount of compensation to be paid to any subagent or buyer's agent shall be determined solely by the company. Such compensation is not intended to, nor may be used to, induce any other real estate firm or agent to raise or lower the commission which may be charged.

F. If company personnel are present when other real estate licensees outside of the company begin a discussion of fees, they must remove themselves from that conversation. At no time shall any company personnel participate in such conversation.

G. Whenever company personnel are unsure of how to respond to the concerns of potential client or customer, or are present during an unauthorized discussion of fees they should immediately contact the broker.

6.) **CONFIDENTIAL INFORMATION** All information disclosed to company personnel during the course of their activities shall not be divulged to anyone without consent of the principal. Unauthorized use or disclosure could result in serious harm to the company and/or termination of the offending person.

7.) ASSOCIATE BROKERS AND SALESPERSON • INDEPENDENT CONTRACTOR OR EMPLOYEE STATUS

A. Unless otherwise specifically provided in the agreement between the company and associate brokers and salespeople, they are independent contractors and not employees. (this agreement is in writing).

B. The company's policy is to have a written [Independent Contractor Agreement](#) or Employment Agreement setting forth the terms and conditions of the relationship with the company before commencing work.

C. Nothing contained in the manual shall impair or affect the independent contractor status of the company's salespersons or associate brokers retained by the company pursuant to Independent Contractor Agreements.

8.) COMPANY EXPECTATIONS All personnel shall:

A. Comply with all laws and rules governing real estate licensees.

B. Comply with directions of supervisory personnel.

C. Support company policies and objectives.

D. Cooperate with all other personnel.

- E. Act as a professional at all times.
- F. Pay attention to details.
- G. Make full disclosure of agency status.
- H. Properly document all transactions.
- I. Remain current on all applicable laws, rules and standards of practice.

9.) USE OF ALCOHOLIC BEVERAGES AND DRUGS

- A. No one is to drink any alcoholic beverage on any day prior to conducting real estate business..
- B. Drug use of any kind, other than properly prescribed and used medicines is strictly prohibited at all times.
- C. Company personnel may not use the offices and may not transact business if they are under the influence of alcohol or drugs.

10.) ABILITY TO BIND COMPANY

- A. No company personnel shall have the authority to obligate or bind the company in any way without the prior, written consent of the company.
- B. The only exception is that salespeople and associate brokers shall have authority to sign listing agreements on behalf of the company which conform to the established requirement of the company using approved forms.
- C. All actions of company personnel shall be performed only in accordance with this manual and only on behalf of the company. No personnel shall be permitted to sell, deal or act in any way that compromises the authority of the company to supervise or direct the activities of such personnel in accordance with applicable law.

11.) COMPENSATION

- A. Compensation for each salesperson or associate broker is contained in the Independent Contractor or Employment Agreement, as applicable.
- B. Company personnel shall not accept or receive compensation of any kind from any other source for, or in connection with their duties and obligations for and on behalf of the company.
- C. All personnel shall comply with all applicable provisions of the Occupational Code.
- D. There must be full disclosure to all parties of the acceptance of any referral, placement or similar fees, to the extent that the company approves, in writing.

12.) TERMINATION OF PERSONNEL

- A. Termination of personnel is governed by the terms of the Independent Contractor or Employment Agreement
- B. Upon termination, all contracts, equipment, records, files, supplies, reference material, prospects and keys shall be immediately relinquished by the terminated individual to the company.
- C. All listings, buyer's broker and other agreements, remain the sole property of the company. The terminated individual shall take no action which may jeopardize or impair the company's rights in them.
- D. All personnel agree to keep the Department of Labor and Economic Growth updated as to their current address during the time they are licensed and for seven years thereafter, or for a period of three years after all complaints against the licensee have been closed by the Department.

13.) SALES AND ADMINISTRATIVE MEETINGS Sales, administrative and educational meeting are held on a regularly scheduled basis by the company. Attendance at these meetings is voluntary except to the extent required by Michigan license law for the purposes set forth in the Occupational Code and the Administrative Rules.

14.) ADVERTISING All advertising must comply with company's policies as well as Rules governing policies and procedures governing advertising of licensee's own properties. All ads must contain the broker's name as licensed, clearly indicate the party advertising is a broker and include the broker's street address or telephone number.

15.) LISTING POLICY Company listing policy shall be in compliance with the Occupational Code and - Rules. Company procedure regulating obtaining of listing, listing agreements and execution and delivery to the seller.

16.) HANDLING OFFERS AND COUNTEROFFERS

- A. All personnel shall promptly deliver all written offers and counteroffers to the offeree in accordance with Michigan license law and sound business practice.
- B. Licensee shall deliver to an offerer a signed copy of the offer to purchase immediately after it has been signed by offerer. A licensee shall promptly tender all written offers to purchase to the seller upon receipt. Upon obtaining a proper acceptance of the offer to purchase, signed by the seller, the licensee shall promptly deliver true executed copies of the acceptance to the purchaser and seller. A licensee shall make certain that all terms and conditions of the real estate transaction are included in the offer to purchase.
- C. Only sales agreements, addenda and other forms specifically approved by the company shall be used by company personnel. Forms currently in use are attached in the Appendix of this manual.

17.) DEPOSITS

- A. All deposits received by the salesperson shall be immediately turned over to the company for deposit into its trust account in accordance with applicable law. All company personnel must familiarize themselves with this rule of law to assure that deposits are timely made.
- B. Company may elect to use a title company to act as escrowee so long as both buyer and seller agree in writing.

18.) COOPERATION WITH OTHER BROKERS Company will cooperate with other brokers at whatever percentage of commission has been agreed to by the seller.

19.) REFERRAL POLICY

- A. All referral, cooperation, co-participation or compensation agreements between individuals in the company shall be in writing and approved by the company.
- B. Work or transactions which are not handled by the company or otherwise outside the expertise of its personnel shall be referred elsewhere upon a compensation basis approved by the company.
- C. Unless otherwise approved by the broker, the company does not work on or handle the following: landlord representation or tenant representation and these activities should be referred to companies dealing in such areas of expertise.

20.) ARBITRATION OF DISPUTES

- A. By accepting a position with this company, all salespersons and associate brokers agree that disputes between them are to be settled by arbitration within the company in accordance with the provisions herein and agree to be bound by such arbitrating result. Any arbitration award may be enforced by the prevailing party in a court of competent jurisdiction.
- B. If salespeople and associate brokers have a dispute which they are unable to settle, either party may submit their grievance in writing to the principal broker for the company.
- C. The broker shall then select two salespeople or associate brokers who are not involved in the dispute as arbitrators to act with them in resolving the dispute.
- D. The three arbitrators will sit as an arbitration panel to hear and decide the dispute in accordance with arbitration rules established by the American Arbitration Association.
- E. The results of arbitration shall be binding upon the parties and may be enforced in any court of competent jurisdiction.

21.) DISPUTES WITH OUTSIDE PARTIES (IF APPLICABLE)

- A. The decision to initiate, settle, or compromise any dispute, arbitration or litigation with an outside party lies solely with the company.
- B. If it becomes necessary for the company to sue for a commission, all expenses, including attorney's fees, shall be borne by the company and salesperson or associate broker in the same percentage as their respective portion of earned commissions, whether or not such a commission is recovered.
- C. If the company is sued as a result of activities or conduct of the salesperson or associate broker, the cost of defense, including attorney's fees, shall be borne by the company and salesperson/associate broker in the same percentage as their respective portion of the commission earned on the transaction; provided, if the company is found liable as a result of activities or conduct of the salesperson/associate broker, salesperson/associate broker shall reimburse the company for its cost, including attorney's fees.

22.) RESPONSIBILITY FOR REPORTING CASH PAYMENTS OVER \$10,000. The company is required to report all cash payments over \$10,000. to the IRS Form 8300 in accordance with applicable IRS Regulations. All company personnel must familiarize themselves with the current IRS regulation and report to the company any cash payments over \$10,000. in any transaction in which they participate.

23.) AUTOMOBILE INSURANCE Company personnel who drive on company business must maintain automobile liability insurance coverage for personal injury and property damage in the minimum amount of \$500,000. A current, valid certificate of insurance must be provided to the company.

24.) FEES AND DUES Fees and Dues which are the sole responsibility of the Company personnel include, but are not necessarily limited to, the following: Association of Realtor dues, Multiple Listing Fees, computer access charges, Chamber of Commerce Dues.

25.) RECOMMENDATION TO PURCHASER FOR TITLE EVIDENCE Personnel shall recommend to the purchaser that a fee title policy in the amount of the purchase price be furnished to the purchaser by the seller, issued or certified to the approximate date of the closing of the transaction.

26.) RECOMMENDATIONS TO PARTIES FOR OTHER PROFESSIONAL ADVICE AND OTHER OUTSIDE SERVICES All personnel understand and agree that the Company is not an inspection firm, attorney, constructional engineer, accountant, tax consultant, financial planner, and shall when such need arises suggest of outside services. Personnel shall recommend that inspection firms and other professional service providers be utilized. If personnel is receiving compensation in connection with such referral it may not be in violation of applicable federal, state and local law. Such compensation may only be accepted with written permission of the client of specific compensation. If the additional compensation is from a mortgage company, personnel shall obtain permission from both buyer and seller.

27.) AGENCY RESPONSIBILITIES It is this companies policy to practice a tradition style of agency. When an agent signs a service provision agreement all affiliated licensees shall be deemed to be acting in the same capacity as the agent signing the agreement. If a buyer under contract with one of the agents becomes interested in a piece of property that is listed in our company, it is our policy to get written permission from both buyer and seller to act as dual agent in that transaction before proceeding. In no instance will undisclosed dual agency be tolerated.

28.) HANDLING OF CLIENT AND CUSTOMER COMPLAINTS All complaints shall be reported to the supervising broker or associate broker. If the salesperson is able to handle the complaint without assistance, this shall be documented and placed in the file of the transaction with a copy of the report delivered to the supervising broker or associate broker.

29.) ACQUIRING INTERESTS IN LISTED PROPERTIES It is the policy of this company, in compliance with the occupational code to disclose the license status of the buyer before the offer to purchase is presented to the seller. Written evidence of this disclosure shall be signed by the seller and maintained in the file with the transaction. No licensed personnel in this company shall receive any portion of the commission without written permission of the seller of specific compensation being paid to the licensee.

30.) DISCLOSURE OF MATERIAL FACTS If one of the licensed personnel of this company is selling personally owned property, the licensed status of the owner shall be disclosed, before the offer to purchase is signed. Satisfactory written proof of this disclosure shall be retained in the file for the transaction. Personnel shall recommend to clients that all material facts concerning the transaction be disclosed. Personnel shall not assist the client in concealing any material fact which could effect the transaction.

31.) USE OF SELLER'S DISCLOSURE STATEMENTS Personnel shall provide seller's disclosure statements to all sellers of one to four family residential property and advise the seller of their requirement to fill out and sign the form. Personnel shall not assist the seller in the preparation of such statement, but should however advise the seller not to guess, but only to affirm those items of which they have personal knowledge. If the seller has no knowledge as to the condition of a particular feature, seller should be advised that there is a column for checking unknown. While there is no requirement by law that seller's disclosure statements are required in vacant land or commercial property, personnel shall provide sellers with such forms if sellers wish to utilize them.

32.) CLOSING PROCEDURES

- A. All personnel shall follow the closing procedures established from time to time by the company.
- B. All closing must be conducted under the direct supervision of a broker or associate broker and shall be in conformity with applicable law, including delivery of closing statement to the parties signed by the broker or associate broker.
- C. No closing statement shall be signed or altered by a salesperson.

33.) THIRD PARTY ESCROWEE DEPOSITS: All earnest money deposits shall be presented to the broker immediately upon notification that the offer to purchase has been accepted. If both seller and buyer agree to use a title company to act as escrowee, personnel shall obtain buyer and seller's written permission and shall deliver the earnest money deposit to the title company within two business days of notification of acceptance of the offer to purchase.

34.) DISBURSEMENT OF DEPOSITS Disbursement of an earnest money deposit shall be made at consummation or termination of the agreement in accordance with the agreement signed by the parties. However, any deposit in the trust account of the broker for which the buyer and seller have mad claim shall remain in the broker's trust account until a civil action has determined to whom the deposit must be paid, or until the buyer and sell have agreed, in writing, to the disposition of the deposit. The broker may also commence a civil action to interplead the deposit with the proper court.

35.) ERRORS AND OMISSIONS INSURANCE

- A. The company carries error and omission insurance with _____
- B. The basic terms of the insurance are _____
- C. The company will pay the base rate of the total premium. The remaining will be prorated and charged to each salesperson or associate broker.
- D. In the event of a claim, the "deductible" amount under the policy shall be paid at the same percentage as the compensation agreement with the salesperson or associate broker.

36.) FLOOR TIME is opportunity time. A sign up sheet shall be maintained. Any personnel desiring to work floor time shall sign up on that sheet. If someone is unable to work the floor time for which they have volunteered, that person shall be responsible for making sure that someone else is covering that time. Personnel may work floor time by way of call forwarding. In no instance shall personnel sign up for floor time and not cover such time.

37.) CORRESPONDENCE AND FILES A copy of all correspondence on the company letterhead shall be provided to the company. Copies of real estate transaction files may be kept by each individual agent; however, the original shall be on file at the office..

38.) DRESS CODE Proper attire, so as to present the correct professional image, shall be worn at all times when conducting business or when at the office. Attire appropriate to the location or occasion shall be considered appropriate.

39.) OFFICE HOURS, HOLIDAYS AND VACATIONS (IF APPLICABLE) The company, from time to time shall post the regular office hours. We shall be officially closed on Christmas and Easter. If personnel is using the office on those days, they shall not light the open sign.

40.) OFFICE EQUIPMENT AND SUPPLIES The office equipment, such as computers, copy machine, fax machine, scanner and so forth are provided for the use of the personnel. If they are not working correctly, this must be reported immediately to the broker or associate broker. Reasonable use of supplies is permitted. If personnel is to be requiring, for example, a major quantity of some supply, this should be discussed with the broker or associate broker. For example, more that 500 copies of an item may be able to be produced less expensively by an outside source.

41.) BUILDING USE The building shall be available to the personnel during regular business hours. The portion of the building that is available for personnel to work floor time or store personal files shall be available off hours by key.

42.) OTHER LICENSES OF COMPANY OR ITS PERSONNEL If personnel carry licenses other than broker, associate broker or salesperson, these shall not be utilized in connection with the transaction without written permission of broker or associate broker. See rule number 26.

43.) FEDERAL DO NOT CALL LIST COMPLIANCE All personnel have been trained in the rules of the Federal Do Not Call list and have received a copy of these rules. The company takes compliance with these rules very seriously. All personnel agree to comply completely with these rules.

43.) FEDERAL LEAD BASED PAINT COMPLIANCE All agents before writing an offer to purchase a residential property shall provide the buyer with the Lead Based Paint booklet, a copy of the lead disclosure and explain the ten day opportunity to inspect for risk. The company takes compliance with these rules very seriously. All personnel agree to comply completely with these rules.

The undersigned acknowledges that he/she has received a copy of the Policy and Procedures Manual for the company and agrees to abide by its terms and all amendments which may be adopted by the company from time to time.

Date: _____

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